

REMARKS

Applicant submits that the present amendment is fully responsive to the Office Action dated March 23, 2007 and, thus, the application is in condition for allowance.

By this reply, no claims are amended. Claims 1-17 remain pending. Of these, claim 1, 6, 9, 14, and 15 are independent. An expedited review and allowance of the application is respectfully requested.

In the outstanding Office Action, claims 1, 6, 9 and 14 were rejected under 35 U.S.C. § 101 because it is alleged that the claimed invention is directed to non-statutory subject matter. It is asserted that the language of the claims is directed to an abstract idea not tied to a technological art, environment or machine to produce a concrete, useful and tangible result. Applicant respectfully traverses.

Such amendment is not necessary as one having ordinary skill in the art would clearly understand that the claims of question relate to tangible matter having a useful result. Furthermore, each of the independent claims cited were not deemed as non-statutory in the preceding Office Action, indicating the inventions recited therein were clear, useful and produced tangible results. Each cited claim is clearly statutory. For example, claim 1 recites a method of testing performance of a receiver through a number of discrete, useful and tangible steps. These steps include actions by various components at various sites. So it could hardly be argued that all of these steps are necessarily limited to a single program. Furthermore, testing a receiver is an important and useful diagnostic tool in the art and one of the important contributions of this invention, which is entitled "Receiver Test System." Attention is directed to the specification for the usefulness of this invention. Claim 6 specifically and positively recites "a radio base station receiver test system" as an element of the claim. It is unclear how this is

somehow not considered as statutory subject matter. This is a useful and tangible product performing a useful and tangible function resulting in a useful and tangible result. Claim 9 recites a “computer readable medium” having a receiver test application, which is a useful and tangible product. This is clearly a useful and tangible medium. Finally, claim 14 is another method of testing performance of a base station within a cellular communication network involving a number of distinct, clear, useful and tangible steps including various tangible components. It is unclear how this useful and clearly presented claim is somehow non-statutory subject matter. Thus, withdrawal of the rejection of these independent claims, and their corresponding dependent claims, is respectfully requested.

In the outstanding Office Action, claims 15-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kiukkonen (USPGPUB 2004/0203466) in view of Zerlan (USPN 7,010,295). It is asserted that Kiukkonen discloses a test unit with all of the limitations of the present invention as recited in the claims, but for a controller coupled to the mobile station, with the controller programmable to initiate a communication as recited. It is alleged that Zerlan does disclose this deficiency and the combination of these cited references would have therefore been obvious to one having ordinary skill in the art. Applicant respectfully traverses.

Neither Kiukkonen nor Zerlan, nor any other related art of record, alone or in combination, disclose or fairly suggest the present invention as recited in the pending claims. For example, Kiukkonen fails to disclose that the controller is programmable to transmit a predetermined test message. Zerlan broadly discloses a communication testing system. Zerlan does not disclose testing of a receiver system as disclosed in the present application and recited in the pending claims.

In addition, even if Zerlan discloses the limitations as alleged by the Examiner, *arguendo*, it would not have been obvious to one of ordinary skill in the art to combine the disclosures of Kiukkonen and Zerlan to arrive at the invention as claimed because Kiukkonen teaches away from such a combination. Kiukkonen discloses that it is advantageous not to generate a predetermined test message. See Kiukkonen, paragraph 11. However, as claimed in claim 15, the present invention discloses transmitting a predetermined message. Since Kiukkonen teaches away from transmitting a predetermined message, it would not have been obvious to one of ordinary skill in the art to combine the disclosures of Kiukkonen and Zerlan to obtain the present invention as recited in claim 15.

With respect to claims 16 and 17, these claims depend on claim 15. Since the combination of Kiukkonen and Zerlan does not teach the receiver test unit of claim 15, the combination also fails to disclose the limitations of claims 16 and 17. In addition, since it would not have been obvious to one of ordinary skill in the art at the time the invention was made to combine the disclosures of Kiukkonen and Zerlan to arrive at all the limitations of claim 15, it also would not have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings.

A TWO (2) month extension of time is hereby requested to enter this amendment. If any other fees are associated with the entering and consideration of this amendment, please charge such fees to our Deposit Account 50-2882.

Applicant respectfully requests an interview with the Examiner to present more evidence of the unique attributes of the present invention in person. As all of the outstanding rejections have been traversed and all of the claims are believed to be in condition for allowance, Applicant respectfully requests issuance of a Notice of Allowance. If the undersigned attorney can assist in

any matters regarding examination of this application, Examiner is encouraged to call at the number listed below.

Respectfully submitted,

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